

**Senate Bill No. 427**

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Passed the Senate August 30, 2010

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*Secretary of the Senate*

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Passed the Assembly August 30, 2010

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2010, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 9875, 9880.1, 9884.8, 9884.9, and 9889.20 of, and to add Section 9884.76 to, the Business and Professions Code, relating to automotive repair.

## LEGISLATIVE COUNSEL'S DIGEST

SB 427, Negrete McLeod. Automotive repair: crash parts.

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and authorizes the director to adopt regulations to implement its provisions. The act requires all work done by an automotive repair dealer to be recorded on an invoice that describes all service work done and parts supplied. The act requires the invoice to include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. The act also requires this information to be provided to a customer in an itemized written estimate when an automotive repair dealer is doing auto body or collision repairs. Existing law requires the automotive repair dealer to obtain authorization from the customer before performing work and imposing charges. A violation of the act is a crime.

Existing law governing motor vehicle replacement parts prohibits an insurer from requiring the use of specified parts in the repair of an insured's motor vehicle unless certain requirements have been met.

This bill would define and redefine "crash part," "aftermarket crash part," and "original equipment manufacturer crash part," for purposes of the act and the motor vehicle replacement part provisions.

The bill would specify that an automotive repair dealer who prepares a written estimate that includes replacement of a deployed airbag and who fails to repair and fully restore the airbag where the consumer has paid for the repair, as specified, is guilty of a misdemeanor punishable by a fine, imprisonment, or both.

The bill would require the invoice for work done by an automotive repair dealer to describe all service work done, parts supplied, and crash parts installed. The bill would make a statement of legislative intent regarding this requirement.

Because a violation of some of the bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 9875 of the Business and Professions Code is amended to read:

9875. As used in this chapter, the following definitions shall apply:

(a) "Insurer" includes an insurance company and any person authorized to represent the insurer with respect to a claim.

(b) "Crash part" means any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels and exterior lighting.

(c) "Aftermarket crash part" means a replacement for any crash part.

(d) "Nonoriginal equipment manufacturer aftermarket crash part" means aftermarket crash parts not made for or by the manufacturer of the motor vehicle.

Nothing in this section shall be construed to apply to the installation of light bulbs in a motor vehicle.

SEC. 2. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following definitions apply for the purposes of this chapter:

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Chief" means the Chief of the Bureau of Automotive Repair.

(c) “Bureau” means the Bureau of Automotive Repair.

(d) “Motor vehicle” means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(e) “Repair of motor vehicles” means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(f) “Person” includes firm, partnership, association, limited liability company, or corporation.

(g) An “automotive technician” is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, diagnostics, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(h) “Director” means the Director of Consumer Affairs.

(i) “Commercial business agreement” means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the

agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

(j) “Customer” means the person presenting a motor vehicle for repair and authorizing the repairs to that motor vehicle. “Customer” shall not mean the automotive repair dealer providing the repair services or an insurer involved in a claim that includes the motor vehicle being repaired or an employee or agent or a person acting on behalf of the dealer or insurer.

(k) “Crash part” shall have the same meaning as in Section 9875.

(l) “Aftermarket crash part” shall have the same meaning as in Section 9875.

(m) “Original equipment manufacturer crash part” means a crash part made for or by the original vehicle manufacturer that manufactured, fabricated or supplied a vehicle or a component part.

(n) “Nonoriginal equipment manufacturer aftermarket crash part” shall have the same meaning as in Section 9875.

SEC. 3. Section 9884.76 is added to the Business and Professions Code, to read:

9884.76. Notwithstanding Section 9889.20, an automotive repair dealer who prepares a written estimate for repairs pursuant to Section 9884.9 that includes replacement of a deployed airbag that is part of an inflatable restraint system and who fails to repair and fully restore the airbag to original operating condition where the customer has paid for the airbag repair as provided in the estimate is guilty of a misdemeanor punishable by a fine of five thousand dollars (\$5,000) or by imprisonment in the county jail for one year or by both that fine and imprisonment.

SEC. 4. Section 9884.8 of the Business and Professions Code is amended to read:

9884.8. All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done, parts supplied, and crash parts installed. Service work and parts shall be listed separately on the repair invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each. If any used, rebuilt, or reconditioned parts are installed, the invoice shall clearly

state that fact. If a part of a component system is composed of new and used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The invoice shall include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. One copy of the invoice shall be given to the customer and one copy shall be retained by the automotive repair dealer.

SEC. 5. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts installed in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are installed. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the repair invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

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(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by anyone other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The written estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part.

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer.

SEC. 6. Section 9889.20 of the Business and Professions Code is amended to read:

9889.20. Except as otherwise provided in Sections 9884.76 and 9889.21, any person who fails to comply in any respect with the provisions of this chapter is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000),

or by imprisonment not exceeding six months, or by both that fine and imprisonment.

SEC. 7. The amendments made by this act to Section 9884.8 of the Business and Professions Code shall not be construed to require the replacement of the official automotive repair dealer sign as described in Section 3351.4 of Title 16 of the California Code of Regulations. It is the intent of the Legislature that instead of a replacement sign that another method be employed in order that the official sign shall accurately reflect the requirements of Section 9884.8 of the Business and Professions Code as amended by this act.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

















Approved \_\_\_\_\_, 2010

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*Governor*